STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

DEPARTMENT OF FISH AND GAME
Sacramento Valley and Central Sierra Region
1701 NIMBUS ROAD, SUITE A
RANCHO CORDOVA, CALIFORNIA 95670
Telephone (916) 358-2900

November 21, 2001

Mr. David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Dear Mr. Boergers:

**COMMENTS BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME ON THE DRAFT NEPA SCOPING DOCUMENT 1 AND CEQA NOTICE OF PREPARATION, OROVILLE FACILITIES RELICENSING, FERC PROJECT NO. 2100-116**

The California Department of Fish and Game (DFG) has reviewed the Draft NEPA Scoping Document 1 and CEQA Notice of Preparation for the relicensing of the Oroville Project, FERC Project No. 2100 circulated on September 27, 2001. DFG staff has been involved in the Oroville Alternate Licensing Process (ALP) since its inception on June 29, 2000. We have participated in all levels of the process: Plenary Group, Work Groups and Task Forces. DFG is very appreciative of Department of Water Resource (DWR) efforts to address fairly all relicensing concerns expressed by agencies and citizens. However, the process has become overwhelming. The number of relicensing concerns (issue statements) and the volume and complexity of study plans is making it difficult for DFG to track our concerns. Therefore, we are resubmitting the list of relicensing concerns which originally were submitted in a letter to Mr. Henry M. Ramirez, Chief, Project Power Planning Branch on February 16, 2001 (February 16, 2001 letter enclosed). Those concerns address the protection of public trust resources associated with Lake Oroville, with the Feather River downstream of Lake Oroville, and include the operation of the Feather River Mitigation Hatchery and management of the Oroville Wildlife Area.

One DFG relicensing issue that appears to have been lost is our concern for funding of the Oroville Wildlife Area Wild Area (OWA). Under a 1968 agreement between the Department of Water Resources and DFG, the OWA was established for the purpose of creating and maintaining a public fish and wildlife management area. Prior to the construction of Oroville Dam, the State acquired title to the borrow area (OWA) under provisions of the Davis–Dolwig Act (Water Resource Development Bond Act), Sections 11900-11925 of the Water Code, for the purpose of creating and maintaining a public fish and wildlife management area and providing for associated recreation, and pursuant to Section 11575 et seq. of the Water Code for the purpose of the water project as defined in Sections 11100 et seq. and 12930 et seq. of the Water Code. Under the Davis–Dolwig Act, it is the policy of this State that recreation and

enhancement of fish and wildlife resources are among the purposes of the state water project (Section 11900), that acquisition of real property for such purposes be planned (Section 11900), and that continued funding for operation and maintenance of such fish and wildlife recreation features be provided (Section 11901). However, to date no funding as authorized under the Davis–Dolwig Act has been provided for operation and maintenance at the OWA. Funding for the operation and maintenance of the OWA has come entirely from the Fish and Wildlife Preservation Fund (Hunting Licence Fees) and from various state and federal allocations. Annual funding now received is only sufficient to cover O&M costs associated with the heavy recreational use. Under existing funding, DFG is unable to manage, create or enhance the wildlife habitat as expected when the OWA was established. Therefore, the DFG respectfully resubmits our request that the Oroville Facilities ALP address the need for additional funding for operation of the OWA (July 2, 2001 memo enclosed).

Other comments on the Draft NEPA Scoping Document 1 and CEQA Notice of Preparation for the relicensing of the Oroville Project, FERC Project No. 2100 are as follows:

*Page v and Page 1:* Executive Summary and Introduction states that the Oroville Facilities operate under a license issued by the Federal Energy Regulatory Commission. The final scoping document should define if the term "facility" refers to just the hydropower operation or to the entire Oroville/State Water Project complex.

*Page 3:* Figure 1, Highway 99 between Yuba City and Chico is labeled Highway 70.

*Page 5:* The ALP process offers the public more than three formal comment opportunities. Formal opportunities to comment will also occur after the SD2 is published and during the State Water Resources Control Board's 401 Certification Process.

*Page 20:* The Department of Water Resources (DWR) should not eliminate "project retirement or issuance of a non-power license" from its range of alternatives considered in the environmental analysis. On page 20 of SD1, DWR states that they are not going to consider "project retirement or issuance of a non-power license" in their evaluation of project alternatives. Although DFG is not suggesting that any specific component of the project should be decommissioned, it is not appropriate for DWR to eliminate this alternative prior to a thorough evaluation of the beneficial or adverse effects of the project. The Federal Energy Regulatory Commission's "Guidelines for Preparing Environmental Assessments" provides detailed information on evaluating project retirement as a relicensing alternative.

*Resources Issues-Appendix B:* If upstream fish passage facilities are

evaluated at project structures, then DWR should also investigate fish screens and other facilities that provide downstream passage. For example, if the Fish Barrier Dam and the Thermalito Diversion Dam are equipped with fish ladders, then fish screens may be needed at the intake for the Thermalito Diversion Dam powerhouse and along the Power Canal.

*Resources Issues-Appendix B:* In its evaluation of operational and engineering alternatives to meet downstream temperature requirements (as identified in Issue Statement E12), DWR should consider alternatives that would allow cooler waters from Lake Oroville to be directed to the Low Flow Channel while warmer waters are directed to the Thermalito Forebay.

Thank you for your consideration. If you have questions about our comments, please contact Mike Meinz, Staff Environmental Scientist, at (916) 358-2853 or mmeinz@dfg.ca.gov.

Sincerely,

for Larry Eng, Ph.D.
Assistant Regional Manager
Fisheries, Wildlife and Environmental Programs

Encloures:

cc: Mr. Len Marino
Department of Water Resources
1416 Ninth Street
P.O. Box 94826
Sacramento, CA 94236-0001

Mr. Henry Ramirez
California Department off Water Resources
P.O. Box 942836
Sacramento, Ca 94236-0001

Mr. James Fargo
Federal Energy Regulatory Commission
Office of Hydropower Licensing

888 First Street, N.E.
Washington, D.C. 20426

Mr. Gary Taylor
c/o Michael Morse
U. S. Fish and Wildlife Service
2800 Cottage Way, Suite W-2605
Sacramento, CA 95825-1846

Mr. Mark Madrid
Forest Supervisor
Plumas National Forest
P.O. Box 11500
Quincy, CA 95971

Mr. Mike Taylor
Plumas National Forest
Feather River Ranger District
875 Mitchell Avenue
Oroville, Ca 95965-4699

Mr. Harry M. Schueller
c/o Jim Canaday
State Water Resources Control
P.O. Box 2000
Sacramento, CA 95812-2000

Ms. Sharon Stohrer
State Water Resources Control
P.O. Box 2000
Sacramento, CA 95812-2000

STATE OF CALIFORNIA -THE RESOURCES AGENCY
**DEPARTMENT OF FISH AND GAME**

Gray Davis, Governor

**OROVILLE/SPENCEVILLE WILDLIFE AREAS**
945 ORO DAM BLVD. WEST
OROVILLE, CA 95965-4419
(530) 538-2236
FAX: 538-2202

Henry M. Ramirez
Chief Project Power Planning Branch
FERC. 2100 Re-licensing
P.O. Box 942836
Sacramento, CA. 94236-0001

July 2, 2001

RE: **FERC 2100 Re-licensing**

Mr. Ramirez,

This letter addresses the Recreation and Socioeconomic Work Group's selection of interim projects and the Alternative Licensing Process (ALP). At the February 28,2001, Plenary Meeting, the Department of Fish and Game (DFG) submitted copies of Oroville Wildlife Area's (OWA) short and long term budgetary needs. At that time we verbally requested that our submittal be considered by the Recreation and Socioeconomic Work Group's Task Force on Interim Projects. However, the DFG's request for budgetary support somehow never showed up for consideration by Task Force on Interim Projects. The operations and maintenance of the OWA has been a concern at all the work groups, especially the Environmental and Recreational groups. The biggest concerns in these groups are public safety, wildlife habitat, cleanliness, and is Fish & Game fulfilling the mitigation and/or mandates of the original license?

Under a 1968 agreement between the Department of Water Resources and DFG, the OWA was established for the purpose of creating and maintaining a public fish and wildlife management area. In a sense, the OWA was established to mitigate for wildlife habitat lost as a result of the construction of the Oroville Project. To date, funding for the operation and maintenance of the OWA has come entirely from the Fish and Wildlife Preservation Fund (Hunting Licence Fees) and from various state and Federal allocations. However, annual funding now received is only sufficient to cover O&M costs associated with the heavy recreational use. Under existing funding, DFG is unable to manage, create or enhance the wildlife habitat as expected when the OWA was established. Therefore, the DFG respectfully resubmits our request for additional funding or consideration by the Recreation and Socioeconomic Work Group's Task Force on Interim Projects. The request for additional funding (attached) addresses both the short and long term financial needs which we believe are necessary to achieve the wildlife mitigation goals of the OWA.

If you have any questions about the above numbers or the operational mandated and/or goals of the Oroville Wildlife Area, Please contact Mr. Mike Meinz ES III at (916) 358-2853 or Andrew Atkinson area manager OWA at (530) 538-2236.

Banky, Curtis
Regional Manager
SVCSR.

CC: Dale Hoffman- Florke
Steve Nachtman (consultant)
FERC Washington DC

**Short Term Needs:**

**Personnel:**

| | | |
|---|---|---|
| Two Py's Habitat Technician | @ 44,996.89 = | $ 89,993.78 |
| One PY Office Technician | @ 41,172.15 = | $ 41,172.15 |
| One PY Tractor operator laborer | @ 47,171.74= | $ 47,171.74 |
| Two Py's Wildlife Protection Officer *** | @ 59,905.86= | $119,811.72 |
| Three PY's Temporary time | @ 21,262.53= | $ 63,787.59 |
| | **Sub Total** | **$361,936.98** |
| **Administrative Overhead (15.3%)of Direct costs** | | **$ 55,376.36** |
| **Total Annual cost for personnel Services** | | **$417,313.34** |

**One time & Equipment costs Associated With Above Positions**

| | | |
|---|---|---|
| Four Pickups *** | @25,000= | $100,000 |
| One One ton Service Pickup for TOL | @35,000= | $ 35,000 |
| One Wheel Tractor | @100,000= | $100,000 |
| One Sixteen foot Fold up disc | @24,000 = | $ 24,000 |
| Transport Truck & Trailer | @145,000= | $145,000 |
| Forklift | @25,000 = | $ 25,000 |
| | **Sub Total** | **$429,000** |
| **Administrative Overhead (15.3%)of Direct costs** | | **$ 65,637** |
| **Total One time costs for Equipment** | | **$494,637** |

**Operation, Maintenance, & minor Equipment:**

| | | |
|---|---|---|
| Total Approximate cost for O,M,&E needed *** | | $180,000 |
| | **Sub Total** | **$180,000** |
| **Administrative Overhead (15.3%)of Direct costs** | | **$ 27,540** |
| **Total Annual cost for OM&E** | | **$207,540** |

**Long term Needs**

**Personnel:**

| | | |
|---|---|---|
| One PY Habitat Supervisor II | @ 67,255.35= | $ 67,255.35 |
| One PY Habitat Supervisor I | @ 55,946.13= | $ 55,946.13 |
| Three Py's Habitat Technician | @ 44,996.89 = | $134,990.67 |
| One PY Office Technician | @ 41,172.15 = | $ 41,172.15 |
| TWO PY's Tractor operator laborer | @ 47,171.74= | $ 94,343.48 |
| Three Py's Wildlife Protection Officer | @ 59,905.86= | $179,717.58 |
| Four PY's Temporary time | @ 21,262.53= | $ 85,050.12 |
| One Range A/B Biologist | @ 53,681.29= | $ 53,681.29 |
| | **Sub Total** | **$712,156.77** |
| **Administrative Overhead (15.3%)of Direct costs** | | **$108,959.99** |
| **Total Annual cost for personnel Services** | | **$821,116.76** |

**One time & Equipment costs Associated With Above Positions**

| | | |
|---|---|---|
| Three Pickups | @25,000= | $ 75,000 |
| One Road grader | @180,000= | $180,000 |
| One Excavator | @180,000= | $180,000 |
| One Backhoe four wheel drive | @60,000 = | $ 60,000 |
| One front end loader | @125,000= | $125,000 |
| One dozer (cat D5C) | @240,000 = | $240,000 |
| | **Sub Total** | **$860,000** |
| **Administrative Overhead (15.3%)of Direct costs** | | **$131,580** |
| **Total One time costs for Equipment** | | **$991,580** |

**Operation, Maintenance, & minor Equipment:**

| | | |
|---|---|---|
| Total Approximate cost for O,M,&E needed | *** | $378,000 |
| | **Sub Total** | **$378,000** |
| **Administrative Overhead (15.3%)of Direct costs** | | **$ 57,834** |
| **Total Annual cost for OM&E** | | **$435,834** |

**Additional needs**

ADA Compliant office area & Restrooms
Security System for Office & Shops
Seed & Chemical Building
Ten Wheel Dump Truck and trailer
Air Boat & Spray Equipment for Spraying ponds & Waterways

*** This number is different from original request due to public's overwhelming concerns for safety and area clean up.

STATE OF CALIFORNIA - THE RESOURCES AGENCY

GRAY DAVIS, Governor

DEPARTMENT OF FISH AND GAME
SACRAMENTO VALLEY AND CENTRAL SIERRA
1701 NIMBUS ROAD, SUITE A
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Telephone (916) 358-2900

February 16, 2001

Mr. Henry M. Ramirez, Chief
Project Power Planning Branch
State Water Project Analysis Office
Department of Water Resources
1416 Ninth Street
Post Office Box 942836
Sacramento, California 95814

Dear Mr. Ramirez:

**Oroville Project (Feather River Project) No. 2100**

As requested by the Department of Water Resource at the December 7, 2000 meeting of the Environmental Work Group, the California Department of Fish and Game formally submits our concerns and a directory of our authorities relative to the relicensing of the Oroville Project, FERC No. 2100 (enclosed).

Thank you for soliciting our concerns. If you have questions about the above, please contact Mr. Mike Meinz, Environmental Services IV, at (916) 358-2853 or mmeinz@dfg.ca.gov.

Sincerely,

Larry L. Eng, Ph.D.
Assistant Regional Manager
Fisheries, Wildlife and Environmental Programs

Enclosures

cc: Mr. Mike Meinz
Department of Fish and Game
1701 Nimbus Road, Suite A
Rancho Cordova, California 95670

Mr. David Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street N. E.
Washington D. C. 20426

# California Department of Fish and Game
# Relicensing Concerns - Oroville Project
# FERC No. 2100

The California Department of Fish and Game (DFG) have identified several broad areas of concern relative to the Relicensing of the Oroville Project. Those concerns are directed toward the protection of public trust resources associated with Lake Oroville, with the Feather River downstream of Lake Oroville, and include the operation of the Feather River Mitigation Hatchery and management of the Oroville Wildlife Area.

DFG respectfully requests that the California Department of Water Resources (DWR) application to the Federal Energy Regulatory Commission (FERC) for relicensing of the Oroville Project address the areas of concern outlined below. Our request in made under provisions of the Federal Power Act [Sections 10(a) and 100)], the Federal Fish and Wildlife Coordinate Act, and Section 21000 [Title 14] of the California Public Resources Code. Section 21000 designates DFG trustee for California's fish and wildlife resources and gives DFG jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species.

Our areas of concern include but may not be limited to the following:

***Reservoir Surface Level Fluctuation***

- Are the project related Lake Oroville water level fluctuations presently affecting the reproduction and survival of warmwater sportfish?

- How will the project related Lake Oroville water level fluctuations affect the reproduction and survival of warmwater sportfish under future operational demands?

- Is the present minimum pool adequate for protecting the Lake Oroville cold- water sport fishery?

***Water Temperature***

- Are the existing temperature requirements defined under the State Water Projects Feather River Flow Constraints being met and are they adequately protecting steelhead and fall, late-fall, and spring-run Chinook salmon in the low-flow section and in the river downstream of Thermalito Afterbay outlet?

- Is the availability of a cold-water pool in Lake Oroville adequate under present and future operational demands to meet the existing downstream present and future operational demands to cold freshwater habitat requirements of steelhead and fall, late-fall, and spring-run Chinook salmon?

- Are the existing temperature requirements defined under the State Water Projects Feather River Flow Constraints adequate for the operation of the Feather River Hatchery?

- Is the availability of a cold-water pool in Lake Oroville adequate under present and future operational demands to meet the cold-water requirements defined under the State Water Projects Feather River Flow Constraints for the Feather River Hatchery?

- Does the existing Temperature Control Device (TCD) in Lake Oroville provide adequate access to the cold-water pool during below normal water or drier years?

- Will the existing TCD in Lake Oroville provide adequate access to the cold- water pool under future operational demands particularly during a series of dry and critically dry years?

- Does the present temperature model have the ability to forecast average daily water temperatures, under present and future operational demands, in the low flow channel and in the river from the Thermalito Afterbay outlet down to Vernona?

- How does the Feather River Hatchery requirement for warmer water in the summer impact river water temperatures required for holding or rearing of steelhead and spring-run Chinook salmon in the low-flow section? That is, should the hatchery water come directly from Lake Oroville rather than from the river at the Fish Barrier Dam in order that both hatchery and river temperature needs can be satisfied?

- How does the pump-back operation during the summer months affect water temperatures required for holding and rearing of steelhead and spring-run Chinook salmon in the low-flow section and in the river downstream of Thermalito Afterbay?

- Does the increase in river water temperature that results from warmer Thermalito Afterbay releases during the spring, summer, and fall months limit the amount of suitable steelhead and salmon habitat in the river downstream of Thermalito Afterbay?

- Does the increase in river water temperature that results from warmer Thermalito Afterbay releases during the spring and early summer months affect survival of Salmonid species outmigrating from the Yuba River?

***Water Quality***

- Are Dissolved Oxygen levels in the Feather River from Thermalito Afterbay to Live Oak a problem during the spring, summer and fall months?

*Fisheries Habitat Stream flow*

- Are the present stream flows defined under the State Water Projects Feather River Flow Constraints being met and are they adequately protecting steelhead and fall, late-fall, and spring-run Chinook salmon in the low-flow section and in the river downstream of Thermalito Afterbay for migrating, holding, spawning, and rearing of steelhead and fall, late-fall, and spring-run Chinook salmon?

- Is additional Physical Habitat Simulations modeling (PHABSIM) necessary to determine what stream flows are necessary for spawning and rearing steelhead and fall, late-fall, and spring-run Chinook salmon in the low-flow section and in the river downstream of Thermalito Afterbay?

- Is riparian vegetative cover in the low-flow section and in the river downstream of Thermalito Afterbay adequate under present flow conditions for rearing steelhead and fall, late-fall, and spring-run Chinook salmon?

*Fluvial Geomorphology*

- Are the present flow requirements defined under the State Water Projects Feather River Flow Constraints adequate for maintaining natural fluvial river functions in the low-flow section and in the river downstream of Thermalito Afterbay (i.e., diversity of habitats: pool to riffle ratios, pool depth, stream bank angle, stream bank stability, stream bank vegetative cover, bedload deposition pattern, and stream bank vegetation root depth verses stream bank height above bankful height).

- Under existing conditions, does the diversity and abundance of benthic macroinvertebrates in the low-flow section and in the river downstream of Thermalito Afterbay suggest a healthy stream channel?

- Under existing conditions, are there adequate amounts of suitable gravel for Salmonid spawning in the low-flow section and in the river downstream of Thermalito Afterbay?

- Under existing conditions, are bankful flows frequent enough to maintain channel morphology, sediment transport, habitat diversity and adequate gravels for Salmonid spawning and rearing in the low-flow section and in the river downstream of Thermalito Afterbay?

- Under existing conditions, are the moderate winter floods and bankful flows adequately recruiting the amount of Large Woody Debris needed to maintain adequate Salmonid rearing habitat in the low-flow section and in the river downstream of Thermalito Afterbay?

- How will the future demand for project water change the timing and duration of moderate winter floods and bankful flows in the low-flow section and in the river downstream of Thermalito Afterbay?

***Ramping and Fluctuation in River Flow***

- Are the present project related flow ramping/fluctuation restraints adequately protecting rearing Salmonid species from being stranded in the low-flow section and in the river downstream of Thermalito Afterbay?

- Are the present project related flow ramping/fluctuation restraints adequately protecting Salmonid redds and spawning gravel from being scoured out from the low-flow section and from the river downstream of Thermalito Afterbay?

***Introgression of Fall and Spring-run Chinook Salmon***

- What engineering or other reasonable and prudent solutions are available that would prevent the interbreeding of fall and spring-run Chinook salmon in the low flow section of the Feather River (migration barrier and/or flow and temperature changes in low flow section)?

***Fish Diseases***

- Would a fish screen(s) on the pump-back operation prevent Infectious Hemopoatic Necrosis (IHN) and other diseases specific to Salmonid species from spreading and becoming permanently established in Lake Oroville? IHN, if permanently established in Lake Oroville, would affect survival of hatchery and river spawned Salmonid species.

***Oroville Wildlife Area***

- Are additional funds are needed to augment the existing budget of the Oroville Wildlife Area? Presently available Fish and Game funds are being dedicated to managing people and not wildlife habitat.

- Are additional funds are needed for law enforcement? Presently 2/3's of all the local game warden activities are spent on the Oroville wildlife Area. An augmentation of funding for more wardens would free up time for other law enforcement activities outside of the wildlife area.

***Endangered Species***

- Have adequate surveys been completed to determine what state or federally listed species (plant and animal) are potentially being impacted by project operations?

***Fish and Wildlife related Recreation***

- Has DWR completed or met all its obligations for recreation mitigation (wildlife habitat and fishing) under the existing FERC license?